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**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF PENNSYLVANIA**

In re
PATRICE A. GALLAGHER,
Debtor.

UNITED STATES TRUSTEE,
Movant,
v.
DITECH FINANCIAL LLC
f/k/a GREEN TREE SERVICING LLC
Respondent.

Case No.: 12-22291 (GLT)
Chapter 13
Related to Dkt. Nos. 113 and 128
Hearing: November 1, 2017 at 10:30 a.m.

**STIPULATED AND AGREED ORDER BETWEEN DITECH FINANCIAL LLC,
THE UNITED STATES TRUSTEE, THE CHAPTER 13 TRUSTEE, AND
THE DEBTOR TO RESOLVE THE MOTION FOR RECONCILIATION**

Ditech Financial LLC (“Ditech”), Andrew R. Vara, Acting United States Trustee (the “UST”), the chapter 13 trustee, and the Debtor (collectively, the “Parties”) hereby file this Stipulated and Agreed Order (the “Stipulation”) in which the Parties stipulate and agree to the entry of an order (a) resolving the disputed escrow surplus amount; and (b) prohibiting Ditech from attempting to collect the escrow surplus from the Debtor at any time.

BACKGROUND

1. On April 30, 2012, Patrice A. Gallagher (the “Debtor”) filed a voluntary petition for relief under chapter 13 of title 11 of the United States Code, 11 U.S.C § 101 *et seq.*, in the United States Bankruptcy Court for the Western District of Pennsylvania (the “Bankruptcy Case”),

2. On June 8, 2012, Bank of America, N.A., filed a proof of claim in the Bankruptcy Case [Claim No. 4].

3. On June 19, 2013, Bank of America filed a notice of transfer of claim from Bank of America, N.A. to Green Tree Servicing LLC [Doc. No. 70].

4. On June 15, 2017, the chapter 13 trustee filed a *Notice of Final Cure Mortgage Payment Regarding Claim No. 4* [Doc. No. 102].

5. On June 22, 2017, Green Tree Servicing LLC filed a notice of transfer of claim from Green Tree Servicing LLC. to Ditech [Doc. No. 103].

6. On June 29, 2017, Ditech filed a *Response to Notice of Final Cure Mortgage Payment* [Doc. No. 109] stating that the Debtor is current with all postpetition payments. As part of the account maintenance performed in connection with filing its *Response to Notice of Final Cure Mortgage Payment*, Ditech waived \$4,943.07 from the Debtor's account.

7. On July 6, 2017, the UST filed the *Motion for Escrow Account Reconciliation Statement, Including Waiver of Unnoticed Escrow Charges or Refund of Escrow Surplus* (the "Motion for Reconciliation") [Doc. No. 113].

8. In response to the UST's Motion for Reconciliation, Ditech reviewed the Debtor's escrow account and determined that a \$1,444.67 escrow surplus is present in the Debtor's escrow account. As more fully set forth in the escrow reconciliation table attached hereto as Exhibit A, the Debtor's escrow account is current.

STIPULATION

9. Ditech consents to the jurisdiction of this court to enter the proposed Stipulation. This court reserves jurisdiction to rule on any disputes and to enforce this Stipulation.

10. This Stipulation shall be interpreted as if drafted by all Parties.

11. This Stipulation contains all of the terms of the Parties' agreement and supersedes any prior understandings or agreements.

12. Ditech's electronic, scanned, or facsimile signatures on this Stipulation shall be valid for all purposes as though they were original signatures.

13. This Stipulation shall in no way limit the Parties' rights, or be binding upon the Parties, in any other cases.

14. Ditech will file Notices of Mortgage Payment Change as required by Fed. R. Bankr. P. 3002.1 for any further changes in the Debtor's ongoing monthly mortgage payments.

15. Ditech will ensure that its system of record reflects the account adjustments contemplated herein.

16. Ditech will pay the \$1,444.67 escrow surplus to the chapter 13 trustee contemporaneously with the execution of the Stipulation and agrees not to pursue the \$1,444.67 surplus from the Debtor at any time. Additionally, Ditech will not pursue collection of the \$4,943.07 that it waived from the Debtor's account as part of the account maintenance performed in connection with filing its *Response to Notice of Final Cure Mortgage Payment*.

17. Based on Parties' agreement herein, the UST withdraws his Motion for Reconciliation.

18. The Parties shall each bear their own respective attorneys' fees and costs.

19. To the extent required, Ditech waives personal service of this Stipulation. The Stipulation may be served on Jared S. Roach, Reed Smith LLP, Reed Smith Centre, 225 Fifth Avenue, Pittsburgh, PA 15222-2716 by ECF Notice and/or First Class U.S. Mail.

20. The hearing scheduled for November 1, 2017 is **CANCELLED**.

Movant shall serve a copy of this Order on respondent(s), their counsel, the Trustee and U.S. Trustee. Movant shall file a certificate of service within 3 days hereof.

AGREED TO AND ACCEPTED BY:

Dated: September 27, 2017

REED SMITH LLP <u>/s/ Jared S. Roach</u> Jared S. Roach (PA ID No. 307541) Maura P. Nuno (PA ID No. 322880) Reed Smith Centre 225 Fifth Avenue, Suite 1200 Pittsburgh, PA 15222 Telephone: (412) 288-3131 Facsimile: (412) 288-3063 Email: jroach@reedsmit.com <i>Counsel to Ditech Financial LLC</i>	ANDREW R. VARA, ACTING UNITED STATES TRUSTEE By: <u>/s/ Norma Hildenbrand</u> Norma Hildenbrand, Trial Attorney PA ID 70421 1001 Liberty Avenue Pittsburgh, PA 15222 (412) 644-4756 Telephone (412) 644-4785 Facsimile norma.l.hildenbrand@usdoj.gov
CHAPTER 13 TRUSTEE <u>/s/ Ronda J. Winnecour</u> Ronda J. Winnecour, Esq. Suite 3250, USX Tower 600 Grant Street Pittsburgh, PA 15219	SANTILLAN LAW FIRM, P.C. <u>/s/ Edgardo D. Santillan</u> Edgardo D. Santillan, Esq. Santillan Law Firm, P.C. 775 Fourth Street Beaver, PA 15009 ed@santillanlaw.com <i>Counsel for the Debtor</i>

BY THE COURT:

GREGORY L. TADDONIO
UNITED STATES BANKRUPTCY COURT

Exhibit A

DATE	ACTUAL	DESCRIPTION	Escrow Balance
05/31/13		STARTING BALANCE	(\$3,436.99)
08/08/13	(\$794.00)	HAZ INS DSB	(\$4,230.99)
09/14/13	(\$565.70)	SCHOOL TAX DSB	(\$4,796.69)
04/02/14	(\$348.68)	CITY TAX	(\$5,145.37)
08/19/14	(\$810.00)	HAZ INS DSB	(\$5,955.37)
09/06/14	(\$574.56)	SCHOOL TAX DSB	(\$6,529.93)
11/04/14	\$149.79	PAYMENT	(\$6,380.14)
11/04/14	\$149.79	PAYMENT	(\$6,230.35)
11/04/14	\$149.79	PAYMENT	(\$6,080.56)
11/04/14	\$149.79	PAYMENT	(\$5,930.77)
11/04/14	\$149.79	PAYMENT	(\$5,780.98)
11/04/14	\$149.79	PAYMENT	(\$5,631.19)
11/04/14	\$149.79	PAYMENT	(\$5,481.40)
11/05/14	\$149.79	PAYMENT	(\$5,331.61)
11/05/14	\$149.79	PAYMENT	(\$5,181.82)
11/05/14	\$149.79	PAYMENT	(\$5,032.03)
11/07/14	\$149.79	PAYMENT	(\$4,882.24)
11/28/14	\$167.11	PAYMENT	(\$4,715.13)
11/28/14	\$167.11	PAYMENT	(\$4,548.02)
11/28/14	\$167.11	PAYMENT	(\$4,380.91)
11/28/14	\$44.93	PAYMENT	(\$4,335.98)
11/29/14	\$0.85	PAYMENT	(\$4,335.13)
12/03/14	\$146.32	PAYMENT	(\$4,188.81)
12/03/14	\$146.32	PAYMENT	(\$4,042.49)
12/03/14	\$167.11	PAYMENT	(\$3,875.38)
12/03/14	\$167.11	PAYMENT	(\$3,708.27)
12/03/14	\$149.79	PAYMENT	(\$3,558.48)
12/03/14	\$149.79	PAYMENT	(\$3,408.69)
12/03/14	\$149.79	PAYMENT	(\$3,258.90)
12/03/14	\$149.79	PAYMENT	(\$3,109.11)
12/03/14	\$149.79	PAYMENT	(\$2,959.32)
12/03/14	\$149.79	PAYMENT	(\$2,809.53)
12/03/14	\$149.79	PAYMENT	(\$2,659.74)
12/03/14	\$149.79	PAYMENT	(\$2,509.95)
12/03/14	\$149.79	PAYMENT	(\$2,360.16)
12/03/14	\$149.79	PAYMENT	(\$2,210.37)
12/03/14	\$149.79	PAYMENT	(\$2,060.58)

12/03/14	\$149.79	PAYMENT	(\$1,910.79)
12/03/14	\$149.79	PAYMENT	(\$1,761.00)
12/03/14	\$149.79	PAYMENT	(\$1,611.21)
12/03/14	\$149.79	PAYMENT	(\$1,461.42)
12/03/14	\$149.79	PAYMENT	(\$1,311.63)
12/03/14	\$149.79	PAYMENT	(\$1,161.84)
12/03/14	\$149.79	PAYMENT	(\$1,012.05)
12/03/14	\$149.79	PAYMENT	(\$862.26)
12/03/14	\$149.79	PAYMENT	(\$712.47)
12/03/14	\$149.79	PAYMENT	(\$562.68)
12/03/14	\$149.79	PAYMENT	(\$412.89)
12/03/14	\$149.79	PAYMENT	(\$263.10)
12/03/14	\$167.11	PAYMENT	(\$95.99)
12/03/14	\$167.11	PAYMENT	\$71.12
12/03/14	\$167.11	PAYMENT	\$238.23
12/03/14	\$167.11	PAYMENT	\$405.34
12/03/14	\$167.11	PAYMENT	\$572.45
12/03/14	\$167.11	PAYMENT	\$739.56
12/03/14	\$167.11	PAYMENT	\$906.67
12/03/14	\$167.11	PAYMENT	\$1,073.78
12/03/14	\$167.11	PAYMENT	\$1,240.89
12/03/14	\$167.11	PAYMENT	\$1,408.00
03/24/15	(\$348.68)	CITY TAX	\$1,059.32
07/17/15	\$149.79	PAYMENT	\$1,209.11
08/03/15	\$149.79	PAYMENT	\$1,358.90
08/07/15	(\$624.00)	HAZ INS DSB	\$734.90
08/20/15	(\$591.16)	SCHOOL TAX DSB	\$143.74
09/02/15	\$149.79	PAYMENT	\$293.53
10/05/15	\$149.79	PAYMENT	\$443.32
10/30/15	\$149.79	PAYMENT	\$593.11
10/30/15	\$149.79	PAYMENT	\$742.90
12/01/15	\$149.79	PAYMENT	\$892.69
12/01/15	\$149.79	PAYMENT	\$1,042.48
12/30/15	\$149.79	PAYMENT	\$1,192.27
01/30/16	\$149.79	PAYMENT	\$1,342.06
03/01/16	\$149.79	PAYMENT	\$1,491.85
03/26/16	(\$348.68)	CITY TAX	\$1,143.17
04/15/16	\$149.79	PAYMENT	\$1,292.96
04/27/16	\$149.79	PAYMENT	\$1,442.75
05/27/16	\$149.79	PAYMENT	\$1,592.54
06/01/16	\$149.79	PAYMENT	\$1,742.33

06/07/16	\$149.79	PAYMENT	\$1,892.12
07/21/16	\$149.79	PAYMENT	\$2,041.91
07/29/16	\$149.79	PAYMENT	\$2,191.70
08/09/16	(\$633.00)	HAZ INS DSB	\$1,558.70
09/16/16	(\$612.69)	SCHOOL TAX DSB	\$946.01
09/30/16	\$149.79	PAYMENT	\$1,095.80
11/03/16	\$149.79	PAYMENT	\$1,245.59
11/16/16	\$149.79	PAYMENT	\$1,395.38
11/16/16	\$149.79	PAYMENT	\$1,545.17
11/16/16	\$149.79	PAYMENT	\$1,694.96
11/16/16	\$149.79	PAYMENT	\$1,844.75
11/30/16	\$149.79	PAYMENT	\$1,994.54
12/01/16	\$149.79	PAYMENT	\$2,144.33
12/31/16	\$149.79	PAYMENT	\$2,294.12
02/03/17	\$149.79	PAYMENT	\$2,443.91
02/03/17	\$149.79	PAYMENT	\$2,593.70
03/02/17	\$149.79	PAYMENT	\$2,743.49
03/14/17	\$149.79	PAYMENT	\$2,893.28
03/14/17	\$149.79	PAYMENT	\$3,043.07
03/24/17	(\$365.69)	CITY TAX	\$2,677.38
04/05/17	\$149.79	PAYMENT	\$2,827.17
05/01/17	\$149.79	PAYMENT	\$2,976.96
05/02/17	\$149.79	PAYMENT	\$3,126.75
06/02/17	\$149.79	PAYMENT	\$3,276.54
06/29/17	\$1,348.11	PAYMENT	\$4,624.65
07/12/17	\$149.79	PAYMENT	\$4,774.44
07/12/17	\$149.79	PAYMENT	\$4,924.23
08/01/17	\$149.79	PAYMENT	\$5,074.02
08/08/17	(\$808.00)	HAZ INS DSB	\$4,266.02